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# Planning Newsletter

13 1975

## EDITORIAL

February, 1975

### "There's Nothing Like a Free Lunch"

During recent years, there have been few more prominent or persistent discussions of an issue than that of land use planning. Citizen organizations, government, business, agriculture and many other groups and individuals are all party to the "great debate." The inherent "goodness" of planning doesn't seem to be questioned--with few exceptions everyone seems to be "for" planning. But the disparity of opinion past that initial point of warmhearted support for a good and common cause is oftentimes sufficient to overwhelm innocent participants, break up meetings and send planners scrambling for cover. If our attitudes toward motherhood were the same, we would worship womankind, prohibit conception and demand children.

There is possibly no subject better suited for identifying conflicting goals within both individuals and groups than land use planning. The support for land use planning quickly disintegrates when it is discovered that virtually every recommendation of the planner at least threatens someone's proven or assumed rights to act in a certain way at sometime in the future. At this point, planners are quick to rise to the occasion with suggestions for rational analysis of the trade-offs involved in public versus private rights. Politicians drive the point home with a gastronomical metaphor about not being able to keep your cake while eating it; ranchers refer to whose ox is being gored; and environmentalists seem partial to "there's no such lunch as a free thing", (or something like that).

Regardless of how the paradox is described, it is obvious that the participants understand the problem. That, of course, is step one. We have been at step one for quite some time. If it is true that the problem must be understood

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prior to its solution, it may be that now is the time to move on to step two. Again, certain metaphors seem appropriate--like "bite the bullet." Unless it is held that land use plans will be implemented by acclamation because of their intrinsic "rightness", I would suggest that now is the time for unusually bold action by our elected officials.

The state legislature is presently reviewing a plethora of land use bills--all of which will undoubtedly gore somebody's ox or take away a free lunch. They also reflect an understanding that we must all give a little and some must give more than others. It is also just possible that hidden away in all the bills asking for better use of our land is a slight, but nevertheless audible, plea to save us from ourselves. There may, in fact, be substantial evidence of the latter if it is acknowledged that we do sometimes ask our decision-makers to decide what we cannot decide for ourselves.

Hal Price

## 701 FUNDING APPLICATIONS

Application packets for HUD 701 planning assistance funds will be mailed to Montana localities within the next few weeks. Appli-

cants will be chosen based on a priority rating system and interviews will be set up with local officials after all applications have been screened.

### LEGISLATIVE HIGHLIGHTS

The following is a listing of land use legislation most likely to be of interest to local planning officials which has been introduced to date in the 44th legislative session:

1. HB68, HB377 and HB488 all amend the Greenbelt law. HB68 and HB488 would redefine agricultural lands and HB377 would change the rollback from four years to 10 years;
2. HB76 would permit city, city-county and county planning boards to form joint or consolidated planning boards by inter-local agreement;
3. HB74 would provide for taxation of rural subdivisions for fire protection;
4. HB143 provides for procedures for emergency interim zoning in cities and towns. (At present only counties have this authority);
5. HB319, introduced by Rep. Huennekens, places a four-year moratorium on agricultural land subdivision and requires a statewide land and water resources inventory;
6. HB341 would provide for conservation easements to allow property owners to voluntarily place their land in a preservation status for periods of time ranging from 15 years to perpetuity;
7. HB369 and SB227 both amend the definition of "subdivision" in the Health Department's law. The Senate bill would make the Health Department's definition coincide with the definition in the "Montana Subdivision and Platting Act" and the House bill would remove any size limit;
3. HB374 places a penalty tax on profits from land transactions realized within less than a six-year period;
3. SB9 increases from 40% to 60% the number of persons residing within a zoning district necessary to defeat county zoning. This has been amended in the Senate and status is presently uncertain.

10. SB90 would provide that a city zoning ordinance creating a Board of Adjustment may limit the variance granting authority of the board;

11. SB49 would amend the state's full disclosure law on land sales to include subdivisions within Montana;

12. SB65 would provide for the designation and preservation of prime agricultural land;

13. SB270 would allow further divisions of land within platted subdivisions without survey or public review;

14. SB272 will give governing bodies more direct control over the activities of commissions, districts, boards or agencies organized or appointed by the governing body (this includes planning boards).

FOR FURTHER INFORMATION ON THE STATUS OF THESE BILLS AND FULL DETAILS, CALL TOLL FREE, 800-332-3408 OR THE PLANNING DIVISION.

### LOCAL SUBDIVISION REGULATIONS

Twenty-nine Montana counties have adopted local subdivision regulations and 13 more will have adopted the regulations by the time this goes to press. The Department of Intergovernmental Relations has adopted subdivision regulations for the remaining 14 counties, as required by the subdivision law. The counties which have had regulations adopted for them are: Fallon, Garfield, Glacier, Golden Valley, McCone, Petroleum, Phillips, Pondera, Prairie, Richland, Roosevelt, Sanders, Sheridan and Valley. Planning Division staff indicated that the 14 counties would have adopted their own regulations had more time been allowed under the law and that the regulations adopted by IGR can be amended by the county commissioners.

Assistance to local officials and planning boards was provided by the planning division in preparing and adopting local regulations as well as providing a series of 18 seminars throughout the state to explain the law. The division also provided a handbook on local subdivision regulations and plat review and model subdivision regulations to aid local officials.

Currently, the planning division is making a

survey of Montana's 126 cities and towns to determine which of these have adopted regulations as required under the law. Subdivision regulations will be adopted during February by IGR for those cities and towns which have not adopted their own.

### DISTRICT COUNCIL CORNER

Members of the Provisional Council for District No. 1 have received letters of recognition from Governor Thomas L. Judge. The Provisional Council is in the process of securing a grant to develop a plan for a district-wide alcoholism program and determine the best structure for its future organization. Personnel from Action for Eastern Montana who were active in a previous alcoholism program in the district and representatives of the Department of Health and Environmental Sciences are assisting the Provisional Council. Indications are that the five health departments located in the five-county district will be responsible for carrying out the program.

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Local governments in District No. 3 have signed resolutions to participate in a water quality study. The cooperative attitude expressed by this undertaking shows the value of multi-county coordination. In light of the critical impact coal development is having in this district, Governor Judge is recommending that the Environmental Protection Agency fund this program.

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District No. 7's water quality application, with support from the Governor, has been sent to EPA. A positive response is anticipated and development of a work program will follow.

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Dick Drews, District Council Coordinator, at the request of the State Commission on Local Government staff, presented the district council concept to the group in December and answered questions.

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Headwaters R.C. & D. met recently in Bozeman to discuss the concept of district councils and where duplication of efforts might arise. State-Local Coordinator, Dorothy Eck and Dick Drews were present to answer questions. Members are currently considering the value of a council for District No. 12.

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Flathead and Lake Counties and the Confederated Tribes in District No. 10 have made application to the EPA for a 208 grant, with the Governor's recommendation for designation as a study area.

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COMING UP: Informational and organizational

meetings of prospective district councils. Support efforts for existing district councils will continue; new sources of funding will be pursued.

### LEGAL BRIEFS

Lake County's board of county commissioners has adopted an interim zoning regulation for approximately 17,360 acres in the Lake Mary Ronan drainage. The interim zoning was recommended to the commissioners by the Lake County Planning Board because of recent disclosures that the lake is eutrophying at an unusually rapid rate; specific causes of this rapid aging have not yet been determined. The zoning regulation provides for public review of any proposed land use changes in the area. It is the intent of the planning board and county commissioners to assure that any change in use will not have a detrimental impact on the lake and its environs.

\* \* \* \* \*

A petition to impose a moratorium on land subdivision and "strip development" was signed by 15% of the qualified electors in Ravalli County and presented to the county commissioners. Under Title 37, Chapter 3, when the county commissioners are presented with a petition signed by 15% of the voters, the commissioners must: 1) adopt the resolution petitioned; 2) refer the question to the voters at an election, or 3) refer the proposed resolution to district court to determine the legality or constitutionality of the resolution before placing it on the ballot. Ravalli County Commissioners did refer the proposed resolution to district court and a ruling on the legality of the Ravalli petition should be given sometime this month.

### POTPOURRI

The Planning Newsletter was conceived approximately two years ago to relay pertinent planning information to planning staffs and board members throughout the state. Never intended to be anything more than a sporadic publication, comments from readers have encouraged us to begin the New Year publishing more frequently. A new format was designed and this issue is the first of what we hope will be an informative, up-to-date monthly publication.

Recipients of the Planning Newsletter who have news items, concerns or questions in the area of planning which would be of interest to



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readers are invited to send them in and according to volume of response and available space, we'll have a regular Letters to the Editor column. Input from planning staffs and board members with regard to what is occurring (or not occurring) in their localities is welcomed.

#### RAVALLI DRAFTS PLAN

Draft copies of the Ravalli County comprehensive plan have been distributed and citizen comments on the plan are currently being solicited. A series of public hearings have been scheduled throughout the county in hopes of obtaining citizen input. The plan is expected to be presented to the county commissioners for adoption prior to June, 1975.

#### AROUND THE STATE

Millard Hulse, who holds a Master's Degree in Geography from the University of Montana, has been hired by the Mineral County Planning Board as Director of Planning; Mrs. Roberta Chandler has taken over Planning Director duties in Deer Lodge County, replacing Glen Kenison; Lake County Planning Board recently hired Dave Erickson as Planning Director; on board in Lincoln County as Director of Planning is Terry Schultz, another Montana native; and replacing Carbon County's Planning Director, Dan Obermeyer, who recently joined the Missoula staff, is Jack Gribble.

Additions to the planning division staff recently include a Helena native, Joe Wilson, who for the

past several years has been Helena's Community Development Coordinator. Joe will be working in the area of urban mass transportation within the State Land Use Planning Bureau.

John Anthony, whose background includes working as a graduate Research Assistant in the Department of Urban Planning at the University of Washington in Seattle, and Community Liaison for the Sea-Tac Communities Plan for the Port of Seattle, has been hired as the division's Community Development Specialist. John will be engaged in program design and production of a community development process for the planning division in an effort to decrease local government dependence on federal and state assistance through the development of local expertise and resources.

Joining the Local Planning Services Bureau as an Associate Planner is another Montana native, Jack Richardson, whose background in land surveying and engineering will prove a welcome asset to the division.

Bill Schweyen, Associate Planner, who for the past two years has assisted local government from the Western Field Office in Missoula, has been transferred to the Helena office and Roger A. Pedersen has been employed by the division to fill Schweyen's position. Pedersen has resided in Montana for the past 15 years and has a B.S. in Earth Science and a Master's of Science degree in Earth Science, with emphasis on urban planning.

This publication is financed in part by a HUD 701 grant.



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